U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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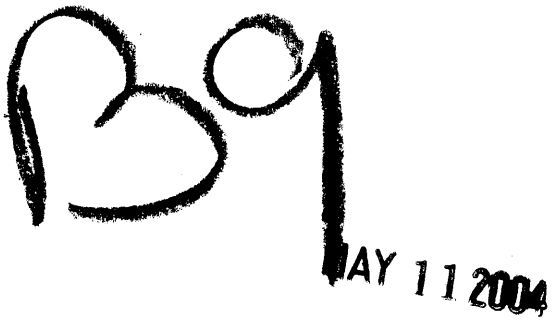

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Petition for Special Immigrant Battered Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Cindy N. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a native and citizen of Egypt who is seeking classification as a special immigrant pursuant to section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii), as the battered spouse of a United States citizen.

The director determined that the petitioner failed to establish that he entered into the marriage to the citizen or lawful permanent resident in good faith. The director, therefore, denied the petition.

On appeal, counsel asserts that he did enter into the marriage in good faith. He submits additional evidence.

8 C.F.R. § 204.2(c)(1) states, in pertinent part, that:

> (i) A spouse may file a self-petition under section 204(a)(1)(A)(iii) or 204(a)(1)(B)(ii) of the Act for his or her classification as an immigrant relative or as a preference immigrant if he or she:
>
> > (A) Is the spouse of a citizen or lawful permanent resident of the United States;
> >
> > (B) Is eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act based on that relationship;
> >
> > (C) Is residing in the United States;
> >
> > (D) Has resided in the United States with the citizen or lawful permanent resident spouse;
> >
> > (E) Has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage; or is the parent of a child who has been battered by, or has been the subject of extreme cruelty perpetrated by, the citizen or lawful permanent resident during the marriage;
> >
> > (F) Is a person of good moral character;
> >
> > (G) Is a person whose deportation (removal) would result in extreme hardship to himself, herself, or his or her child[1]; and
> >
> > (H) Entered into the marriage to the citizen or lawful permanent resident in good faith.

The record contains a copy of a visa page affixed to the petitioner's passport reflecting that a B1/B2 nonimmigrant visitor's visa was issued in Cairo on May 27, 1997. However, no evidence was furnished to indicate the petitioner's date of entry into the United States. The petitioner married his United States citizen spouse on November 22, 2000 at New York City, New York. On May 13, 2002, a self-petition was filed by the petitioner

[1] On October 28, 2000, the President approved enactment of the Violence Against Women Act, 2000, Pub. L. No. 106-386, Division B, 114 Stat. 1464, 1491 (2000). Section 1503(b) amends section 204(a)(1)(A)(iii) of the Act so that an alien self-petitioner claiming to qualify for immigration as the battered spouse or child of a U.S. citizen is no longer required to show that the self-petitioner's removal would impose extreme hardship on the self-petitioner or the self-petitioner's child. *Id.* section 1503(b), 114 Stat. at 1520-21.

claiming eligibility as a special immigrant alien who has been battered by, or has been the subject of extreme cruelty perpetrated by, his U.S. citizen spouse during their marriage.

8 C.F.R. § 204.2(c)(1)(i)(H) requires the petitioner to establish that he entered into the marriage with the U.S. citizen in good faith.

The director reviewed the evidence furnished by the petitioner, including evidence furnished in response to the director's request for additional evidence on January 7, 2003. He noted that the petitioner's self-statements and the affidavits from friends and his attorney were insufficient to establish the existence of a good-faith marriage. He maintained that while the affidavits do constitute evidence, they do not contain sufficient detail to make a positive finding. The director further noted that although examples of evidence the petitioner may submit to show good-faith marriage were furnished to the petitioner, he failed to submit this evidence.

On appeal, the petitioner submits:

- Aetna U.S. HealthCare Card under the petitioner's name;
- A credit card statement from Capital One Bank addressed to the petitioner and his spouse;
- A receipt for payment of dental services for the petitioner through his credit card, and signed by the petitioner;
- A radiology report for the petitioner that he stated was paid through Aetna Insurance;
- A membership agreement between Bally Total Fitness and the petitioner. While the petitioner claims that this membership included his spouse, it is noted that the petitioner and a Ms. [redacted] were listed on the agreement; however, there is no evidence in the record tha[redacted] and [redacted] (the petitioner's spouse) are one and the same person.

The credit card statement from Capital One Bank is the only document furnished that shows the names of both the petitioner and his spouse, and is insufficient to establish that the petitioner married his citizen spouse in good faith. Furthermore, while this document and other documents in the record established that the petitioner and his spouse may have resided together pursuant to 8 C.F.R. 204.2(c)(1)(i)(D), the petitioner has failed to establish that he entered into the marriage to the U.S. citizen in good faith, and to overcome the findings of the director pursuant to 8 C.F.R. 204.2(c)(1)(i)(H).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.